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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,546	09/09/2003	Gaines Thomas Ray	6288P001	3061

8791 7590 07/12/2005

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EXAMINER

BARNEY, SETH E

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/659,546	Applicant(s) RAY ET AL.	
	Examiner Seth Barney	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 8-33 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 7 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 1-5, 8-33, and 35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 23, 2005. While applicant indicated claim 35 is readable on the elected species, examiner notes the claim recites "a powdered medium" in lines 3 and 5 of the claim. It is apparent from the brief description of the figures that Figure 11 shows a cartridge having the powdered medium, while Figures 1-7 do not. Applicant elected the species of Figures 1-7, therefore claim 35 is held withdrawn from further consideration.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 6, 7, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,174,068 to Rudolph.

Regarding claim 6, Rudolph discloses a cartridge (13) having:

- a nozzle (14) disposed at one end of the cartridge.
- an inner chamber to hold a medium (11) to be dispersed from the cartridge.
- a piston (15) disposed within the cartridge to push against the inner chamber.

See Figure 1.

Regarding claim 7, the cartridge further comprises an opening in the rear of the inner chamber to allow positive air pressure to enter the cartridge. See column 3 lines 11 to 21.

Regarding claim 34, Rudolph discloses a cartridge (13) comprising:

- a nozzle (14) disposed at one end of the cartridge.
- an inner chamber to hold a medium (11) to be dispersed from the cartridge.
- means for dispensing the medium (15) from the cartridge.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,769,632 to Takeuchi discloses a cartridge using air to push a piston that releases medium. U.S. Patent No. 6,095,435 to Greer Jr. et al. discloses a cartridge having a push plunger to activate the piston. U.S. Patent No. 2,001,207 to McManamna et al. discloses a gas-actuated piston for dispensing medium. U.S. Patent No. 5,558,277 to Owen et al. discloses a cartridge having a push plunger activated piston for dispensing medium.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).

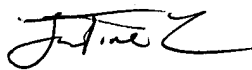
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney
Examiner
Art Unit 3752

sb


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
7/8/05